

borrower is unable to complete an academic year due to—

(i) A return to postsecondary education, on at least a half-time basis, that is directly related to the performance of the service described in this section;

(ii) A condition that is covered under the Family and Medical Leave Act of 1993 (FMLA) (19 U.S.C. 2654); or

(iii) A call or order to active duty status for more than 30 days as a member of a reserve component of the Armed Forces named in section 10101 of title 10, United States Code.

(6) If a borrower meets the requirements of paragraph (c)(5) of this section, the borrower's period of postsecondary education, active duty, or qualifying FMLA condition including the time necessary for the borrower to resume qualifying teaching no later than the beginning of the next regularly scheduled academic year, does not constitute a break in the required five consecutive years of qualifying teaching service.

(7) A borrower who teaches in more than one qualifying school during an academic year and demonstrates that the combined teaching was the equivalent of full-time, as supported by the certification of one or more of the chief administrative officers of the schools involved, is considered to have completed one academic year of qualifying teaching.

(8) A borrower is not eligible for teacher loan forgiveness on a defaulted loan unless the borrower has made satisfactory repayment arrangements to re-establish title IV eligibility, as defined in §685.200(b).

(9) A borrower may not receive loan forgiveness for qualifying teaching service under this section if the borrower receives a benefit for the same teaching service under subtitle D of title I of the National and Community Service Act of 1990.

(d) *Forgiveness amount.* (1) A qualified borrower is eligible for forgiveness of up to \$5,000 of the aggregate amount of a borrower's Direct Subsidized Loan, Direct Unsubsidized Loan, or Direct Consolidation Loan obligation that is outstanding after the borrower completes his or her fifth consecutive complete academic year of teaching as de-

scribed in paragraph (c) of this section. Only the outstanding portion of a Direct Consolidation Loan that was used to repay an eligible subsidized or unsubsidized Federal Stafford loan, an eligible Direct Subsidized Loan, or an eligible Direct Unsubsidized Loan qualifies for loan forgiveness under this section.

(2) A borrower may not receive more than a total of \$5,000 in loan forgiveness for outstanding principal and accrued interest under both this section and 34 CFR §682.215.

(3) The Secretary does not refund payments that were received from or on behalf of a borrower who qualifies for loan forgiveness under this section.

(e) *Application.* (1) A borrower, after completing the qualifying teacher service, must request loan forgiveness from the Secretary on a form provided by the Secretary.

(2) If the Secretary determines that the borrower meets the eligibility requirements for loan forgiveness under this section, the Secretary—

(i) Notifies the borrower of this determination; and

(ii) Unless otherwise instructed by the borrower, applies the proceeds of the loan forgiveness first to any outstanding Direct Unsubsidized Loan balances, next to any outstanding Direct Subsidized Loan balances, next to any qualifying Direct Unsubsidized Consolidation Loan balances, and last to any qualifying outstanding Direct Subsidized Consolidation Loan balances.

(3) If the Secretary determines that the borrower does not meet the eligibility requirements for loan forgiveness under this section, the Secretary notifies the borrower of this determination.

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(Authority: 20 U.S.C. 1087a *et seq.*)

[65 FR 65629, Nov. 1, 2000]

§§ 685.218–685.219 [Reserved]

§ 685.220 Consolidation.

(a) *Direct Consolidation Loans.* A borrower may consolidate one or more education loans made under certain

Federal programs into one or more Direct Consolidation Loans. Loans consolidated into a Direct Consolidation Loan are discharged when the Direct Consolidation Loan is originated.

(b) *Loans eligible for consolidation.* The following loans may be consolidated into a Direct Consolidation Loan:

- (1) Federal Subsidized Stafford Loans.
 - (2) Guaranteed Student Loans.
 - (3) Federal Insured Student Loans (FISL).
 - (4) Direct Subsidized Loans.
 - (5) Direct Subsidized Consolidation Loans.
 - (6) Federal Perkins Loans.
 - (7) National Direct Student Loans (NDSL).
 - (8) National Defense Student Loans (NDSL).
 - (9) Federal PLUS Loans.
 - (10) Parent Loans for Undergraduate Students (PLUS).
 - (11) Direct PLUS Loans.
 - (12) Direct PLUS Consolidation Loans.
 - (13) Federal Unsubsidized Stafford Loans.
 - (14) Federal Supplemental Loans for Students (SLS).
 - (15) Federal Consolidation Loans.
 - (16) Direct Unsubsidized Loans.
 - (17) Direct Unsubsidized Consolidation Loans.
 - (18) Auxiliary Loans to Assist Students (ALAS).
 - (19) Health Professions Student Loans (HPSL) and Loans for Disadvantaged Students (LDS) made under subpart II of part A of title VII of the Public Health Service Act.
 - (20) Health Education Assistance Loans (HEAL).
 - (21) Nursing loans made under subpart II of part B of title VIII of the Public Health Service Act.
- (c) *Types of Direct Consolidation Loans.* (1) The loans identified in paragraphs (b)(1) through (8) of this section may be consolidated into a Direct Subsidized Consolidation Loan.
- (2) The loans identified in paragraphs (b)(9) through (12) of this section may be consolidated into a Direct PLUS Consolidation Loan.
- (3) The loans identified in paragraphs (b)(13) through (21) of this section may be consolidated into a Direct Unsub-

sidized Consolidation Loan. In addition, Federal Consolidation Loans under (b)(15) of this section may be consolidated into a Direct Subsidized Consolidation Loan, if they are eligible for interest benefits during a deferment period under Section 428C(b)(4)(C) of the Act.

(d) *Eligibility for a Direct Consolidation Loan.* (1) A borrower may obtain a Direct Consolidation Loan if, at the time the borrower applies for such a loan, the borrower meets the following requirements:

- (i) The borrower either—
 - (A) Has an outstanding balance on a Direct Loan; or
 - (B) Has an outstanding balance on an FFEL loan and asserts either—
 - (1) That the borrower is unable to obtain an FFEL consolidation loan; or
 - (2) That the borrower is unable to obtain an FFEL consolidation loan with income-sensitive repayment terms acceptable to the borrower and is eligible for the income contingent repayment plan under the Direct Loan Program.
- (ii) On the loans being consolidated, the borrower is—
 - (A) In an in-school period and seeks to consolidate loans made under both the FFEL Program and the Direct Loan Program;
 - (B) In an in-school period at a school participating in the Direct Loan Program and seeks to consolidate loans made under the FFEL Program;
 - (C) In a six-month grace period;
 - (D) In a repayment period but not in default;
 - (E) In default but has made satisfactory repayment arrangements, as defined in applicable program regulations, on the defaulted loan; or
 - (F) In default but agrees to repay the consolidation loan under the income contingent repayment plan described in § 685.208(f) and signs the consent form described in § 685.209(c)(7).
- (iii) The borrower certifies that no other application to consolidate any of the borrower's loans listed in paragraph (b) of this section is pending with any other lender.
- (iv) The borrower agrees to notify the Secretary of any change in address.
- (v) In the case of a Direct PLUS Consolidation Loan—

(A) The borrower may not have an adverse credit history as defined in § 685.200(b)(7)(ii); or

(B) If the borrower has such an adverse credit history, the borrower shall obtain an endorser for the consolidation loan who does not have an adverse credit history or provide documentation satisfactory to the Secretary that extenuating circumstances relating to the borrower's credit history exist.

(vi) In the case of a defaulted Direct Consolidation Loan, the borrower obtains the approval of the Secretary.

(vii) In the case of a loan on which the holder has obtained a judgment, the borrower obtains the approval of the Secretary.

(2) Two married borrowers may consolidate their loans together if they meet the following requirements:

(i) At least one spouse meets the requirements of paragraphs (d)(1)(i) and (d)(1)(v) of this section.

(ii) Both spouses meet the requirements of paragraphs (d)(1)(ii) through (d)(1)(iv) of this section.

(iii) Each spouse agrees to be held jointly and severally liable for the repayment of the total amount of the consolidation loan and to repay the loan regardless of any change in marital status.

(e) *Application for a Direct Consolidation Loan.* To obtain a Direct Consolidation Loan, a borrower or borrowers shall submit a completed application to the Secretary. A single application may be used for one or more consolidation loans. A borrower may add eligible loans to a Direct Consolidation Loan by submitting a request to the Secretary within 180 days after the date on which the Direct Consolidation Loan is originated.

(f) *Origination of a consolidation loan.* (1)(i) The holder of a loan that a borrower wishes to consolidate into a Direct Loan shall complete and return the Secretary's request for certification of the amount owed within 10 business days of receipt or, if it is unable to provide the certification, provide to the Secretary a written explanation of the reasons for its inability to provide the certification.

(ii) If the Secretary approves an application for a consolidation loan, the Secretary pays to each holder of a loan

selected for consolidation the amount necessary to discharge the loan.

(iii) For a Direct loan or FFEL Program loan that is in default, the Secretary limits collection costs that may be charged to the borrower to no more than those authorized under the FFEL Program and may impose reasonable limits on collection costs paid to the holder.

(2) Upon receipt of the proceeds of a Direct Consolidation Loan, the holder of a consolidated loan shall promptly apply the proceeds to fully discharge the borrower's obligation on the consolidated loan. The holder of a consolidated loan shall notify the borrower that the loan has been paid in full.

(3) The principal balance of a Direct Consolidation Loan is equal to the sum of the amounts paid to the holders of the consolidated loans.

(4) If the amount paid by the Secretary to the holder of a consolidated loan exceeds the amount needed to discharge that loan, the holder of the consolidated loan shall promptly refund the excess amount to the Secretary to be credited against the outstanding balance of the Direct Consolidation Loan.

(5) If the amount paid by the Secretary to the holder of the consolidated loan is insufficient to discharge that loan, the holder shall notify the Secretary in writing of the remaining amount due on the loan. The Secretary promptly pays the remaining amount due.

(g) *Interest rate.* The interest rate on a Direct Subsidized Consolidation Loan or a Direct Unsubsidized Consolidation Loan is the rate established in § 685.202(a)(3)(i). The interest rate on a Direct PLUS Consolidation Loan is the rate established in § 685.202(a)(3)(ii).

(h) *Repayment plans.* A borrower may repay a Direct Consolidation Loan under any of the repayment plans described in § 685.208, except that—

(1) A borrower may not repay a Direct PLUS Consolidation Loan under the income contingent repayment plan; and

(2) A borrower who became eligible to consolidate a defaulted loan under paragraph (d)(1)(ii)(F) of this section shall repay the consolidation loan

under the income contingent repayment plan unless—

(i) The borrower was required to and did make a payment under the income contingent repayment plan in each of the prior three (3) months; or

(ii) The borrower was not required to make payments but made three reasonable and affordable payments in each of the prior three (3) months; and

(iii) The borrower makes and the Secretary approves a request to change plans.

(i) *Repayment period.* (1) Except as noted in paragraph (i)(4) of this section, the repayment period for a Direct Consolidation Loan begins on the day the loan is disbursed.

(2) Under the extended or graduated repayment plan, the Secretary determines the repayment period under §685.208(e) on the basis of the outstanding balances on all of the borrower's loans that are eligible for consolidation and the balances on other education loans except as provided in paragraph (i)(3) of this section.

(3)(i) The total amount of outstanding balances on the other education loans used to determine the repayment period under the graduated or extended repayment plan may not exceed the amount of the Direct Consolidation Loan.

(ii) The borrower may not be in default on the other education loan unless the borrower has made satisfactory repayment arrangements with the holder of the loan.

(iii) The lender of the other educational loan may not be an individual.

(4) A Direct Consolidation Loan receives a grace period if it includes a Direct Loan or FFEL Program loan for which the borrower is in an in-school period at the time of consolidation. The repayment period begins the day after the grace period ends.

(j) *Repayment schedule.* (1) The Secretary provides a borrower of a Direct Consolidation Loan a repayment schedule before the borrower's first payment is due. The repayment schedule identifies the borrower's monthly repayment amount under the repayment plan selected.

(2) If a borrower adds an eligible loan to the consolidation loan under paragraph (e) of this section, the Secretary

makes appropriate adjustments to the borrower's monthly repayment amount and repayment period.

(k) *Refunds and returns of title IV, HEA program funds received from schools.* If a lender receives a refund or return of title IV, HEA program funds from a school on a loan that has been consolidated into a Direct Consolidation Loan, the lender shall transmit the refund or return and an explanation of the source of the refund or return to the Secretary within 30 days of receipt.

(l) *Special provisions for joint consolidation loans.* The provisions of paragraphs (l)(1) through (3) of this section apply to a Direct Consolidation Loan obtained by two married borrowers.

(1) *Deferment.* To obtain a deferment on a joint Direct Consolidation Loan under §685.204, both borrowers must meet the requirements of that section.

(2) *Forbearance.* To obtain forbearance on a joint Direct Consolidation Loan under §685.205, both borrowers must meet the requirements of that section.

(3) *Discharge.* (i) If a borrower dies and the Secretary receives the documentation described in §685.212(a), the Secretary discharges an amount equal to the portion of the outstanding balance of the consolidation loan, as of the date of the borrower's death, attributable to any of that borrower's loans that were repaid by the consolidation loan.

(ii) If a borrower meets the requirements for total and permanent disability discharge under §685.212(b), the Secretary discharges an amount equal to the portion of the outstanding balance of the consolidation loan, as of the date the borrower became totally and permanently disabled, attributable to any of that borrower's loans that were repaid by the consolidation loan.

(iii) If a borrower meets the requirements for discharge under §685.212(d), (e), or (f) on a loan that was consolidated into a joint Direct Consolidation Loan, the Secretary discharges the portion of the consolidation loan equal to the amount of the loan that would be eligible for discharge under the provisions of §685.212(d), (e), or (f) as applicable, and that was repaid by the consolidation loan.

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(iv) If a borrower meets the requirements for loan forgiveness under § 685.212(h) on a loan that was consolidated into a joint Direct Consolidation Loan, the Secretary repays the portion of the outstanding balance of the consolidation loan attributable to the loan that would be eligible for forgiveness under the provisions of § 685.212(h), and that was repaid by the consolidation loan.

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(Authority: 20 U.S.C. 1078–8, 1087a *et seq.*)

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Subpart C—Requirements, Standards, and Payments for Direct Loan Program Schools

§ 685.300 Agreements between an eligible school and the Secretary for participation in the Direct Loan Program.

(a) *General.* (1) Participation of a school in the Direct Loan Program means that eligible students at the school may receive Direct Loans. To participate in the Direct Loan Program, a school shall—

(i) Demonstrate to the satisfaction of the Secretary that the school meets the requirements for eligibility under the Act and applicable regulations; and

(ii) Enter into a written program participation agreement with the Secretary that identifies the loan program or programs in which the school chooses to participate.

(2) The chief executive officer of the school shall sign the program participation agreement on behalf of the school.

(b) *Program participation agreement.* In the program participation agreement, the school shall promise to comply with the Act and applicable regulations and shall agree to—

(1) Identify eligible students who seek student financial assistance at the institution in accordance with section 484 of the Act;

(2) Estimate the need of each of these students as required by part F of the

Act for an academic year. For purposes of estimating need, a Direct Unsubsidized Loan, a Direct PLUS Loan, or any loan obtained under any State-sponsored or private loan program may be used to offset the expected family contribution of the student for that year;

(3) Certify that the amount of the loan for any student under part D of the Act is not in excess of the annual limit applicable for that loan program and that the amount of the loan, in combination with previous loans received by the borrower, is not in excess of the aggregate limit for that loan program;

(4) Set forth a schedule for disbursement of the proceeds of the loan in installments, consistent with the requirements of section 428G of the Act;

(5) Provide timely and accurate information to the Secretary for the servicing and collecting of loans—

(i) Concerning the status of student borrowers (and students on whose behalf parents borrow) while these students are in attendance at the school;

(ii) Upon request by the Secretary, concerning any new information of which the school becomes aware for these students (or their parents) after the student leaves the school; and

(iii) Concerning student eligibility and need, for the alternative origination of loans to eligible students and parents in accordance with part D of the Act;

(6) Provide assurances that the school will comply with requirements established by the Secretary relating to student loan information with respect to loans made under the Direct Loan Program;

(7) Provide that the school will accept responsibility and financial liability stemming from its failure to perform its functions pursuant to the agreement;

(8) Provide that eligible students at the school and their parents may participate in the programs under part B of the Act at the discretion of the Secretary for the period during which the school participates in the Direct Loan Program under part D of the Act, except that a student may not receive loans under both part D of the Act and part B of the Act for the same period of